IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10631 of 1994

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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R.PRATAPSINH,S. RAMCHANDRA,R. GARBHUPRASAD, S.R. YADAV - Petitioner(s)

Versus

GOPAL DESIGNER'S & FABRICATORS & 2 - Respondent(s)

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Appearance :

MR DJ BHATT for Petitioner No(s).: 1.

MR YS MANKAD for Respondent No(s).: 1.
RULE NOT RECD BACK for Respondent No(s).: 2,3.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 22/07/2005

ORAL JUDGMENT

1.0 The petitioners have challenged the order dated

10.11.1993 passed by the Labour Court, Ahmedabad, in Reference (LCA) No.619 of 1986, whereby the Labour Court had held that the petitioners were not entitled for back wages, but, had made it clear that if in future the respondent Company had started to function, then it shall reinstate the petitioners.

2.0 The brief facts of the case are that the petitioners were serving as Turners & Helpers with the respondent Company. It is the case of the petitioners that since they were exploited by the respondent Company, they had joined a Union and had set a Charter of Demand on 21.09.1985 demanding increase in their pay.

2.1 On receiving the Charter of Demand from the Union, the respondent terminated the services of the petitioners on 24.10.1985. Being aggrieved by the said order, the Union raised a dispute which ultimately culminated into a reference being Reference (LCA) No.619 of 1986. The Labour Court, by impugned award, issued the aforesaid directions. Hence, this petition.

3.0 Mr. D J Bhatt learned advocate for the petitioners has contended that the respondent Company had shifted

their place of work to another place, and therefore, the theory of lock out put forward by the respondent may not be accepted. He has submitted that the respondent has violated the mandatory provisions of Section 25(F) of the Industrial Disputes Act, 1947 by terminating the services of the petitioners.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. The contention raised by Mr. Bhatt cannot be accepted since the said contention was not a subject matter of reference before the Labour Court. Hence, this contention cannot be permitted to be raised at this stage. I am in complete agreement with the reasonings given by and the findings arrived at by the Labour Court and find no reasons to interfere in this petition. Therefore, the petition deserves to be dismissed.

5.0 In the result, the petition is dismissed. Rule is discharged with no order as to costs.

(K. S. JHAVERI, J.)

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